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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/706,849	11/07/2000	Alan S. Fisher	MR2909-2/C	8858

7590 10/22/2004

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EXAMINER

WASYLCHAK, STEVEN R

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 10/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/706,849

Applicant(s)

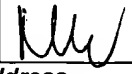
FISHER ET AL.

Examiner

Steven R. Wasylchak

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 18-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friedland et al. (US 6,449,601).

Claims:

18. A computer system for conducting an auction through a computer network, the system comprising:
a posting means for posting to a computerized merchandise catalog information that is accessible through the computer network, the information describing each lot in a plurality of lots available for auction, each lot including at least one item, wherein the information related to items in each lot is automatically updated in the merchandise catalog as items in each lot are made available for auction;/abstract; fig 1,2 all; col 3, L 9-52

However, Friedland does not explicitly disclose the posting means being available to add a lot for auction during an auction of another lot.

Official notice is taken that this feature is old and well known in the e-commerce art and / or retail art. It would have been obvious to one of

ordinary skill in the art at the time of applicant's invention to implement this feature for the advantage of more efficient use of time available for auction by having multiple auctions.

a bid receiving means for receiving a bid for at least a portion of the plurality of lots;/fig 1-3

a bid validation means for examining the bid; and/fig 15(1506)

a bid categorizing means for determining whether the bid is successful or unsuccessful.

/ col 3, L 9-52

19. The computer system in claim 18, further comprising an auction selection means for associating each lot of the plurality of lots with an auction format selected from a plurality of auction formats./fig1, 2 (silent and internet auctions)

20. The computer system in claim 19, wherein an auction format of the plurality of auction formats comprises one selected from the group comprising: Dutch auction, standard auction, progressive auction, and buy or bid auction./abstract

21. The computer system in claim 18, wherein the bid receiving means receives the bid from a bid form./fig 7-10

22. The computer system in claim 18, wherein the posting means is adapted to receive a message posted through the computer network corresponding to a lot and to post the message in association with the descriptive information for that lot.

/fig 7-11

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23. The computer system in claim 22, wherein the message received and posted by the posting means includes a text message from a bidder corresponding to a lot./fig 10,11

24. The computer system of claim 19, wherein the bid receiving means is for receiving bids on at least two lots that are simultaneously open for auction, the at least two lots having different associated auction formats, and wherein the bid categorizing means is for automatically categorizing the received bids as successful or unsuccessful in accordance with the associated auction format for each lot/refer to claim 1; col 4, L51-64

25. The computer system of claim 18, further comprising proxy bidding means for automatically generating for the portion of the lot a subsequent bid based upon an initial bid provided by a bidder./ col 3, L 1-8,44-52

26. A method for conducting an auction business through a computer network, the method comprising the steps of:

posting by at least one seller on a computerized merchandise catalog information that is descriptive of a lot of a plurality of lots available for auction, each lot including at least one item;

adding a lot to the plurality of lots by posting on the computerized merchandise catalog information that is descriptive of items in the added lot, wherein the information pertaining to the added lot is added to the merchandise catalog as at least a portion of a lot of the plurality of lots is made available for auction;

receiving a bid from a bidder for at least a portion of a lot of the plurality of lots; and

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determining whether the bid for the at least the portion of the lot is successful or unsuccessful. / refer to cl 18

27. The method in claim 26, further comprising associating each lot of the plurality of lots with an auction format selected from a plurality of auction formats. / refer to cl 19

28. The method in claim 27, wherein an auction format of the plurality of auction formats comprises one selected from the group comprising: Dutch auction, standard auction, progressive auction, and buy or bid auction. / refer to cl 20

29. The method in claim 26, wherein the step of receiving further comprises the step of receiving the bid from a bid form. / refer to cl 21

30. The method in claim 26, further comprising the step of receiving an electronic message pertaining to at least a portion of a lot and posting the electronic message in association with the descriptive information for that lot. / refer to cl 22

31. The method in claim 30, wherein the electronic message includes a text message. / refer to cl 23

32. The method in claim 27, wherein the step of receiving further comprises receiving bids on at least two lots that are simultaneously open for auction, the at least two lots having different associated auction formats. / refer to cl 24

33. The method in claim 32, wherein the step of determining comprises the step of automatically categorizing the received bids as successful or unsuccessful in accordance with an associated auction format associated with each lot. / refer to cl 24

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34. The method in claim 27, further comprising the step of automatically generating for the portion of the lot a subsequent bid based upon an initial bid provided by a bidder.

/ refer to cl 25

35. A computer-readable medium containing instructions for controlling a computer to conduct an auction through a computer network comprising the steps of: posting by at least one seller on a computerized merchandise catalog information that is descriptive of at least one of a plurality of lots available for auction, each lot having at least one item; either adding items to or deleting items from a lot of the plurality of lots available for auction and posted to the merchandise catalog during an auction of another lot of the plurality of lots, wherein information relating to an item in a lot is added to or deleted from the merchandise catalog as items in each lot are to be either made available for auction or no longer available for auction; receiving a bid for a portion of a lot from the plurality of lots from a bidder; and determining whether the received bid is successful or unsuccessful. / refer to cl 18

36. The computer-readable medium in claim 35, further comprising instructions for associating each lot of the plurality of lots with an auction format selected from a plurality of auction formats so that at least two lots have different associated auction formats. / refer to cl 19

37. The computer-readable medium in claim 36, wherein an auction format of the plurality of auction formats comprises one selected from the group comprising:

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Dutch auction, standard auction, progressive auction, and buy or bid auction. / refer to cl 20

38. The computer-readable medium in claim 35, further comprising instructions for receiving the bid for the lot from a bid form. / refer to cl 21

39. The computer-readable medium in claim 35, further comprising instructions for receiving a message pertaining to at least a portion of a lot and posting the message in association with the descriptive information for that lot. / refer to cl 22

40. The computer-readable medium in claim 39, wherein the message posted includes a text message. / refer to cl 23

41. The computer-readable medium in claim 35, wherein the instructions for receiving further comprises instructions for receiving bids on at least two lots that are simultaneously open for auction, the at least two lots having different associated auction formats. / refer to cl 24

42. The computer-readable medium in claim 41, wherein the -instructions for determining further comprises instructions for automatically categorizing the received bids as successful or unsuccessful in accordance with the associated format for each lot. / refer to cl 24

43. The computer-readable medium in claim 35, further comprising the step of automatically generating for the portion of the lot a subsequent bid based upon an initial bid provided by a bidder. / refer to cl 25

44. A system for conducting an auction through a computer network, the system comprising:

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a merchandise posting mechanism configured to post merchandise information from at least one seller, the information being accessible through the computer network and describing at least one in a plurality of lots available for auction, each lot including at least one item, the posting means available to add a lot for auction during an auction of another lot;

a bid receiver to receive a bid for at least a portion of a lot of the plurality of lots;

a bid validator to examine the received bid and to store the bid in a bid database; and

an auction manager that queries the bid database to automatically determine whether the bid is successful or unsuccessful. / refer to cl 18

45. The computer system in claim 44, further comprising an auction selector to associate each lot of the plurality of lots with an auction format selected from a plurality of auction formats, at least two lots having different associated auction formats. / refer to cl 19

46. The computer system in claim 45, wherein an auction format of the a plurality of auction formats comprises one from the group comprising: Dutch auction, standard auction, progressive auction, and buy or bid auction. / refer to cl 20

47. The computer system in claim 44, wherein the bid receiver receives the bid through a bid form. / refer to cl 21

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48. The computer system in claim 44, wherein the merchandise posting mechanism is configured to receive a message posted through the computer network pertaining to at least a portion of a lot and to post the message in association with the descriptive information for that lot. / refer to cl 22
49. The computer system in claim 48, wherein the message posted by the posting mechanism includes a text message. / refer to cl 23
50. The computer system in claim 44, wherein the bid receiver receives bids on at least two lots that are simultaneously open for auction, the at least two lots having different associated auction formats. / refer to cl 24
51. The computer system in claim 50, wherein the auction manager automatically categorizes the received bids as successful or unsuccessful in accordance with the selected auction format for each lot./ refer to cl 24
52. The computer system in claim 44, further comprising proxy bidding means for automatically generating for the portion of the lot a subsequent bid based upon an initial bid provided by a bidder./ refer to cl 25

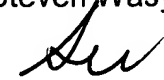
This action is **NON-FINAL**. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven R. Wasylchak whose telephone number is (703) 308-2848. The examiner can normally be reached on Monday-Thursday from 7:00 a.m. to 6:00 p.m. EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin, can be reached at (703) 308-1065. The fax number for Art Unit 3624 is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Steven Wasylchak



9/26/04



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